

KENNERLY LOUTEY, LLC
MAXWELL S. KENNERLY, ESQ.

October 20, 2017

Via ECF Filing

Judge Paul A. Engelmayer

Re: **In re: Mirena No. II**, 17-MD-2767, 17-MC-2767

Pursuant to Your Honor's Order, Dkt. 102, the parties submit the following statements.

Plaintiffs' Position:

The dispute letters, Dkts. 98-101, were revised prior to filing to take into account this Court's order regarding general causation discovery. This Court's order confirmed that discovery unrelated to general causation shall occur later in the case, but the Plaintiffs and Defendants continue to disagree which matters are relevant to general causation. For example, Plaintiffs believe some labeling issues are relevant to general causation given the intertwining of causality assessments and regulatory compliance at pharmaceutical companies, but Defendants object to these labeling issues as a proper topic of corporate designee depositions during this phase of the case. *See* Dkt. 98 at pp. 4-5. This same disagreement also extends to other designee notices, to the selection of individual witnesses, and to the written discovery requests as well. Plaintiffs believe that Court guidance on these matters would resolve ongoing disputes about discovery and would ensure depositions are not delayed or frustrated by squabbles over whether particular subjects are relevant to general causation.

Defendants' Position:

Defendants have agreed to produce a wide range of witnesses and will not limit the subject matter of those witnesses' testimony to general causation. Given that agreement and Defendants' substantial document production, Defendants object to the sweeping Rule 30(b)(6) notices and written discovery plaintiffs have served for the reasons addressed in our letters. Following the Court's Order of yesterday, Defendants asked Plaintiffs to narrow or withdraw their requests but they have not done so. With these discovery requests still outstanding, Defendants are in the same position as before the Court's most recent clarification and respectfully request rulings from the Court on the issues presented in the letters.

msk@thlawyer.com
phone: (215) 948-2718
fax: (215) 689-4315

Office:
601 Walnut St #1150w
Philadelphia, PA 19106

Secure Mail:
PO Box 30049
Elkins Park, PA 19027

Of Counsel to TorHoerman Law

Respectfully submitted,

/s/ Martin D. Crump

Martin D. Crump

Davis & Crump PC

Co-Lead Counsel for Plaintiffs

Lawrence L. Jones II

Jones Ward PLC

Co-Lead Counsel for Plaintiffs

Maxwell S. Kennerly

Kennerly Loutey, LLC

Liaison Counsel for Plaintiffs

/s/ Paul W. Schmidt

Paul W. Schmidt

Covington & Burling LLP

Co-Lead Counsel for Defendants

Shayna S. Cook

Goldman Ismail Tomaselli Brennan & Baum

LLP

Co-Lead Counsel for Defendants

E. James Shepherd

Shook, Hardy & Bacon L.L.P.

Counsel for Defendants

CC (via ECF): All Counsel registered via ECF